

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Wright Analyst: Gloria McConnell Bill Number: AB 1044Related Bills: _____ Telephone: 845-4336 Amended Date: 07/13/99Attorney: Patrick Kusiak Sponsor: _____**SUBJECT:** FTB Collection of Student Aid Commission Outstanding Accounts Receivable

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended 05/28/99.

☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

☒ DEPARTMENT POSITION CHANGED TO Neutral.☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED 06/24/99 STILL APPLIES.☒ OTHER - See comments below.SUMMARY OF BILL

Under this bill, before a delinquent student loan could be referred to Franchise Tax Board (FTB) for collection, the Student Aid Commission (commission) would be required to provide certain notices and hearings, including "actual" notice at the debtor's last known address. The notices generally would delay referral of outstanding student loans to FTB by 30 days.

Additionally, under this bill,

1. FTB would be required expressly to provide notice to the debtor at the most recent address of record provided by the commission or last address known to the FTB. If the mail is returned as undeliverable or FTB otherwise knows the mail was misdirected, FTB would be required to use reasonable diligence to ascertain the current address of the debtor and provide notice at that address;
2. FTB would be required to wait at least 15 days (instead of the current 10 days) after it issues notice to the debtor containing certain prescribed information written in Spanish and English and requests payment before it can proceed with collection action;
3. FTB would be limited to levying on 10% of a debtor's wages unless a court has determined in a final judgment or order that a greater amount may be lawfully levied;
4. FTB would be allowed to adopt regulations to implement the provisions of this bill; and
5. In developing any notice required by the Government Code for collection of delinquent student loans, the FTB would be required to consult with knowledgeable advocates who represent debtors in defaults on student loans.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input checked="" type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Department Director

Date

Gerald Goldberg

8/09/1999

SUMMARY OF AMENDMENT

The July 13, 1999, amendment generally prohibits the referral of an account to FTB for collection if, because of factors not under the debtor's control, the debtor fails to file a timely request for hearing and objection to the referral and precludes the referral of that case to FTB until a hearing is given and the matter resolved.

The June 24, 1999, amendment removes the following provisions that would have directly affected FTB's collection program and resolves certain of the Policy Considerations raised in FTB's previous analysis:

- Amounts collected from wages would have been returned if the debtor establishes by a preponderance of the evidence that FTB did not provide the debtor with the notice as required in above #1.
- FTB would have been limited to levying on, in the aggregate, 25% of the amount in a debtor's bank account(s) unless the amount in the bank account(s) is in excess of \$2,000, in the aggregate, at the time of levy.

Policy Considerations

This bill, in part, is the same as AB 2004, as amended July 2, 1998. To resolve the policy/implementation considerations raised in FTB's analysis of that amended bill, the Senate Appropriations Committee took amendments in committee (August 20, 1998) and passed the bill. Governor Wilson, irrespective of those amendments, subsequently returned the bill without signature stating he did not believe that the rights of severely delinquent loan debtors should be expanded beyond the rights of those who attempt to repay their debts. Additionally, it was stated that he believed that current law provides a reasonable balance between the due process rights of students and the right of the state to collect repayment of delinquent loans.

Under this bill as amended, July 13, 1999, the following policy considerations raised in prior analyses and in 1998 remain applicable to this bill:

- This bill would implement due process protections before debts may be referred to FTB that go beyond those already provided under both federal and California laws. Moreover, the bill in reality, though it may appear otherwise, would limit the amount of wages subject to levy to 10% since it is unclear whether FTB could (or would) challenge the 10% limitation in court given the statute specifically directs FTB to limit collections to 10%.
- To the extent the collection of delinquent student loans under this bill would differ from the collection of taxes, FTB's collection efficiencies may diminish.

Implementation Considerations

This bill requires that the FTB consult with knowledgeable advocates who represent debtors in default on student loans in developing any notice required by law in the enforcement of delinquent student loans.

The issuance of required notices may be delayed pending consultation with advocates; however, any delay is not expected to be significant.

FISCAL IMPACT

Departmental Costs

This bill would not significantly increase departmental costs.

Collection Estimate

Based on the discussion below, the collection impact of this proposal is as follows:

Estimated Collections Impact AB 1044		
Actions Taken After 12/31/99		
Student Aid Commission's Outstanding Accounts Receivables		
Fiscal Year Impact		
(In Millions)		
1999-0	2000-1	2001-2
-\$2.5	Minor Loss	Minor Loss

Minor Loss = Less than \$400,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this proposal.

Collection Estimate Discussion

Revised collection losses above reflect a reduction of approximately \$500,000 for 1999-0, and negligible reductions for 2000-1 and 2001-2 from the previous version of this bill. This reduction in the collection losses is primarily attributable to the June 24th amendment that removes the limitation of bank levies.

The assumption stated in the previous analysis still apply.

BOARD POSITION

Neutral. The FTB at its meeting of July 6, 1999, voted to take a neutral position on this bill.